

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 12/15/2011

Action Requested By:
Engineering

Agenda Item Type
Resolution

Subject Matter:

Agreement with Christopher Professional Enterprises, Inc.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to amend the contract with Christopher Professional Enterprises, Inc. for Redstone Gateway, Package 1B-3 Primary Communication and Primary Electrical Package, Project No. 65-11-SP05, as adopted by Resolution No. 11-281 of April 14, 2011, by Change Order No. 1.

Note: If amendment, please state title and number of the original

¹¹⁻²⁸¹
Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow

and accomplish and; any other information that might be helpful.

Change Order is needed to incorporate Package 1B Civil Revisions 1-4 to revise the street lighting to LED, add power distribution equipment and wiring for LED street lighting, add power and communications duct bank to Western Road, add communications stub outs at hand holes at Rideout Road, additional cost for Huntsville Utilities ATC for revised LED street lighting, and temporary traffic signal per Package 1A Civil Revision 12. Change Order increases contract amount by \$298,053.80. Account No. 05-6500-0811-2014

Associated Cost:

Budgeted Item: Select...

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: 

Date: 12/5/2011

ROUTING SLIP

CONTRACTS AND AGREEMENTS

Originating Department: **Engineering**

Council Meeting Date: **12/15/2011**

Department Contact: **Lynn Majors**

Phone # **256-427-5201**

Contract or Agreement: **Change Order No. 1**

Document Name: **Christopher-Redstone Gateway 1B-3, Project No. 65-11-SP05**

City Obligation Amount: **\$298,053.80**

Total Project Budget: **\$1,451,595.80**

Uncommitted Account Balance: **0**

Account Number: **05-6500-0811-2014**

Procurement Agreements


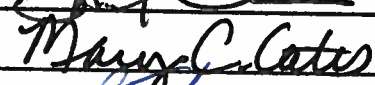

Title 39

Competitive

Grant-Funded Agreements

**Not
Applicable**

Grant Name:

Department	Signature	Date
1) Originating		
2) Legal		12/8/2011
3) Finance		12/9
4) Originating		
5) Copy Distribution		
a. Mayor's office (2 copies)		
b. Clerk-Treasurer (Original & 2 copies)		
c. Legal (1 copy)		

RESOLUTION NO. 11-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama that the contract with Christopher Professional Enterprises, Inc. adopted and approved on the 14th day of April, 2011, by the City Council of the City of Huntsville, Alabama by Resolution No. 11-281, is hereby amended as is reflected on Change Order #1 attached hereto.

BE IT FURTHER RESOLVED that the total contract amount be and hereby is amended from ONE MILLION ONE HUNDRED FIFTY-THREE THOUSAND FIVE HUNDRED FORTY-TWO AND NO/100 DOLLARS (\$1,153,542.00), to ONE MILLION FOUR HUNDRED FIFTY-ONE THOUSAND FIVE HUNDRED NINETY-FIVE AND .80/100 DOLLARS (\$1,451,595.80), including this change order, an increase of TWO HUNDRED NINETY-EIGHT THOUSAND FIFTY-THREE AND .80/100 DOLLARS (\$298,053.80). There are an additional seventy-three (73) calendar days added to contract completion. New end date: January 28, 2012. Said change order is substantially similar in words and figures as that document attached hereto and identified as "Change Order No. 1 to Contract with Christopher Professional Enterprises, Inc. for Redstone Gateway, Package 1B-3 Primary Communication and Primary Electrical Package, Project No. 65-11-SP05, as adopted by Resolution No. 11-281 of April 14, 2011" consisting of four (4) pages plus one (1) additional page consisting of Power of Attorney, and the date of December 15, 2011, appearing on the margin of the first page, together with the signature of the President of the City Council, and an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the _____ day of _____, 2011.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the _____ day of _____, 2011.

Mayor of the City of Huntsville,
Alabama

CHANGE ORDER REQUEST

OWNER		ARCHITECT/ENGINEER		CONTRACTOR
City of Huntsville		LBVD, Inc.		Christopher Professional Enterprises, Inc.
DATE	12/15/2011	CHANGE ORDER NO.	1	
PROJ. NAME & NUMBER	Redstone Gateway Package 1B-3 Primary Communication and Primary Electrical Package /Project Number 65-11-SP05			

NEW NEGOTIATED ITEMS

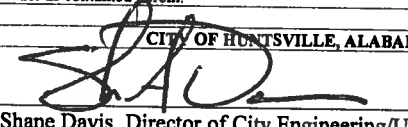
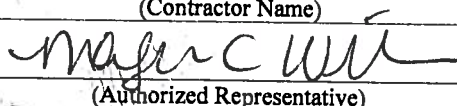
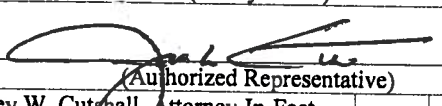
ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE	EXT AMT.
30	2" Direct Bore	710	LF	\$35.00	\$24,850.00
31	PB Pull Box # 1	71	EA	\$185.00	\$13,135.00
32	PB Pull Box # 2	6	EA	\$285.00	\$1,710.00
33	RP - 1 & 2 Panel	1	LS	\$12,900.00	\$12,900.00
34	#2 XLP TriPlex Wire	14500	LF	\$2.35	\$34,075.00
35	Remove Top Soil	1	LS	\$3,000.00	\$3,000.00
36	KDT Road Manhole Adjust	1	LS	\$5,465.00	\$5,465.00
37	Add 20' Stubs per rev. 4	1	LS	\$2,250.00	\$2,250.00
38	Additional Labor Lights	57	EA	\$285.00	\$16,245.00
39	Temporary Signals	1	LS	\$19,262.50	\$19,262.50
TOTAL NEW NEGOTIATED ITEMS					\$132,892.50

OVERRUN ITEMS

ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE	EXT AMT.
1	Bonds	1	LS	\$4,099.00	\$4,099.00
2	Mobilization	1	LS	\$5,049.00	\$5,049.00
3	6" Conduit	1350	LF	\$8.32	\$11,232.00
4	5" Conduit	725	LF	\$7.82	\$5,669.50
5	2" Conduit	5610	LF	\$5.25	\$29,452.50
6	Street Lights & Pedestals	18	EA	\$882.35	\$15,882.30
7	750 Cab.	3	EA	\$1,650.00	\$4,950.00
10	Manholes 7'	1	EA	\$6,000.00	\$6,000.00
12	Duct Bank	390	LF	\$29.00	\$11,310.00
13	Layout	1	LS	\$5,500.00	\$5,500.00
23	Street Light Aid	1	LS	\$66,017.00	\$66,017.00
TOTAL OVERRUN ITEMS					\$165,161.30

UNDERRUN ITEMS

ITEM	DESCRIPTION	QUANT	UNIT	UNIT PRICE	EXT AMT.
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
TOTAL UNDERRUN ITEMS					\$0.00
TOTAL NEW & OVERRUN ITEMS					\$298,053.80
TOTAL UNDERRUN ITEMS					\$0.00
TOTAL CHANGE ORDER NO. 1					\$298,053.80

CHANGE ORDER REQUEST																											
OWNER		ARCHITECT/ENGINEER																									
City of Huntsville		LBVD, Inc.																									
DATE		CHANGE ORDER NO.																									
12/15/2011		1																									
PROJ. NAME & NUMBER																											
Redstone Gateway Package 1B-3 Primary Communication and Primary Electrical Package /Project Number 65-11-SP05																											
<p>TERMS: As a condition of this contract, pursuant to 8 U.S.C. §1324a, Christopher Professional Enterprises, Inc., hereby certifies that it has not knowingly employed, recruited, referred for a fee, or contracted with an unauthorized alien, with respect to employment in the United States. Further, Christopher Professional Enterprises, Inc. hereby certifies that it has enrolled in the designated employment eligibility verification system and will maintain enrollment throughout the term of this contract. You are hereby authorized, subject to the provisions of your contract for this project, to make the following changes thereto in accordance with this Change Order Request and supporting documents and to furnish the necessary labor, materials and equipment to:</p> <p>Incorporate Package 1B Civil Revisions 1 - 4</p>																											
THIS CHANGE ORDER SUBMITTED FOR REVIEW AND APPROVAL. JUSTIFICATION IS AS FOLLOWS:																											
Emergencies arising during the course of work.																											
X	Minor changes of total monetary value and incidental to the original contract necessitated by unforeseeable circumstances arising during the course of work and less than required for competitive bidding.																										
	Change of or alternates provided for in the original bidding where there is no difference in price of the Change Order from the original best bid on the alternate.																										
	Change of relatively minor terms not contemplated when the plans and specifications were prepared and the project was bid and which are in the public interest and do not exceed 10% of the Contract Price.																										
<p>TOTAL ADDITION OR DEDUCTION TO CONTRACT PRICE (NOTE: Numbers in parentheses are deductions). (See attached sheet for line item breakdown of change order costs.)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>For This Change Order</td> <td style="text-align: center;">1</td> <td style="text-align: center;">ADD</td> <td></td> </tr> <tr> <td>Original Contract Price</td> <td></td> <td></td> <td style="text-align: right;">\$298,053.80</td> </tr> <tr> <td>Net Total Previous Change Orders</td> <td></td> <td></td> <td style="text-align: right;">\$1,153,542.00</td> </tr> <tr> <td>Previous Revised Contract Price</td> <td></td> <td></td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Revised Contract Price This Date</td> <td></td> <td></td> <td style="text-align: right;">\$1,153,542.00</td> </tr> <tr> <td></td> <td></td> <td></td> <td style="text-align: right;">\$1,451,595.80</td> </tr> </table>				For This Change Order	1	ADD		Original Contract Price			\$298,053.80	Net Total Previous Change Orders			\$1,153,542.00	Previous Revised Contract Price			\$0.00	Revised Contract Price This Date			\$1,153,542.00				\$1,451,595.80
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Revised Contract Price This Date			\$1,153,542.00																								
			\$1,451,595.80																								
<p>EXTENSION OF TIME resulting from this Change Order is seventy-three (73) additional days. New contract completion date: 01/28/2012.</p> <p>This contract modification constitutes full and mutual accord and satisfaction for all time and all costs related to this change. By acceptance of this Contract Modification, the Contractor hereby agrees that the modification represents an equitable adjustment to the Contract, and further, agrees to waive all right to file for any further claims or changes arising out of or as a result of this change, or the accumulation of executed Contract Modifications on this Contract. The Contractor and Owner(s) hereby agree to the terms for the Change Order as contained herein.</p>																											
CONTRACTOR		CITY OF HUNTSVILLE, ALABAMA																									
Christopher Professional Enterprises, Inc.		 Shane Davis, Director of City Engineering/Urban Development																									
(Contractor Name)																											
 (Authorized Representative)		Tommy Battle, Mayor																									
CONSENT OF SURETY																											
The Guarantee Company of North America USA		Mark Russell, Council President																									
(Surety Name)																											
 (Authorized Representative)		12/15/2011																									
Jeffrey W. Cutshall, Attorney-In-Fact		(Date)																									
Page 2																											



November 28, 2011

Mr. Chris McNeese
City of Huntsville
320 Fountain Circle
Huntsville, AL 35801

Re: Redstone Gateway Phase 1
Christopher Professional Enterprises Owner Change Order #1

Dear Chris:

I have reviewed Christopher Professional's change order request for Revisions 1 thru 4 for Package 1B, which added the Western Road Extension and revised the Street Lighting to LED fixtures, and noticed that it exceeds their original contract amount by 25.8%.

However due to the following reasons I am recommending approval at this time:

- The Western Road extension, must be added at this time per the City of Huntsville's Development Agreement with COPT which requires the infrastructure to be built to facilitate the construction of a new office building (Flex Building) in the southwest quadrant of the EUL project.
- During the bid process for Package 1B the need for construction of the Western Road extension was not known. However once COPT had a lease for the "Flex Building" the need was created for the Western Road Extension.
- During the public bid process competitive unit prices for the primary communication and primary electrical work were established and have been utilized by Christopher Professional for pricing the Western Road Extension for Owner Change Order #1.
- The quantities are accurate and the unit prices match those in Christopher Professional's contract with the City of Huntsville.
- COPT, the developer, decided to change the infrastructure Street Lighting from standard light fixtures to LED light fixtures to match the private office building parking lot lighting after the contract to Christopher Professional was awarded.
- During the public bid process Huntsville Utilities was to furnish all materials for the standard street lighting. However when COPT, the developer, changed the street lighting to LED light fixtures Christopher Professional had to furnish electrical panels, pull boxes, and wire.
- It should be noted that Christopher Professional's change order also includes the additional ATC cost of \$66,017 from Huntsville Utilities who will furnish the LED street light fixtures and poles.
- Due to schedule requirements this work needs to proceed as soon as possible to prevent delaying other contractors on the project.
- I have discussed the attached change order request with Tony Christopher/Christopher Professional and found it be fair to both the City of Huntsville and Christopher Professional.

BRASFIELD AND GORRIE, LLC

3027 7TH Avenue South Birmingham, Alabama 35233
P: 205.328.4000 F: 205.257.1304 W: BrasfieldGorrie.com

In my opinion it is in the Public's best interest to award this additional work to Christopher Professional in lieu of proceeding with the public bid process.

Please call me if you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Robert M. Kelley". The signature is written in a cursive style with a large, stylized "K" and "Y".

Robert M. Kelley
Senior Project Manager

RMK/bh

Enclosures

cc: Brent Jones, Brasfield & Gorrie, LLC
Roger Carter, Brasfield & Gorrie, LLC



THE GUARANTEE COMPANY OF NORTH AMERICA USA
Southfield, Michigan

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS: That **THE GUARANTEE COMPANY OF NORTH AMERICA USA**, a corporation organized and existing under the laws of the State of Michigan, having its principal office in Southfield, Michigan, does hereby constitute and appoint

***Alvin Benjamin Bresler, Jeffrey W. Cutshall, Ryan R. McClendon, Albert B. Evans, David G. Lanier
J. Smith Lanier & Company, Inc.***

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise.

The execution of such instrument(s) in pursuance of these presents, shall be as binding upon **THE GUARANTEE COMPANY OF NORTH AMERICA USA** as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at the principal office.

The Power of Attorney is executed and may be certified so, and may be revoked, pursuant to and by authority of Article IX, Section 9.03 of the By-Laws adopted by the Board of Directors of **THE GUARANTEE COMPANY OF NORTH AMERICA USA** at a meeting held on the 31st day of December, 2003. The President, or any Vice President, acting with any Secretary or Assistant Secretary, shall have power and authority:

1. To appoint Attorney(s)-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof; and
2. To revoke, at any time, any such Attorney-in-fact and revoke the authority given, except as provided below
3. In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner – Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of the Company adopted at a meeting duly called and held on the 31st day of December 2003, of which the following is a true excerpt:

RESOLVED that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, contracts of indemnity and other writings obligatory in the nature thereof, and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, **THE GUARANTEE COMPANY OF NORTH AMERICA USA** has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 9th day of October, 2008.

THE GUARANTEE COMPANY OF NORTH AMERICA USA



STATE OF MICHIGAN
County of Oakland


Stephen Dullard, Vice President

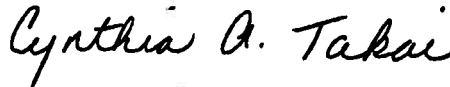

Randall Musselman, Secretary

On this 9th day of October, 2008 before me came the individuals who executed the preceding instrument, to me personally known, and being by me duly sworn, said that each is the herein described and authorized officer of The Guarantee Company of North America USA; that the seal affixed to said instrument is the Corporate Seal of said Company; that the Corporate Seal and each signature were duly affixed by order of the Board of Directors of said Company.



Cynthia A. Takai
Notary Public, State of Michigan
County of Oakland
My Commission Expires February 27, 2012
Acting in Oakland County

IN WITNESS WHEREOF, I have hereunto set my hand at The Guarantee Company of North America USA offices the day and year above written.



I, Randall Musselman, Secretary of **THE GUARANTEE COMPANY OF NORTH AMERICA USA**, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by **THE GUARANTEE COMPANY OF NORTH AMERICA USA**, which is still in full force and effect.

IN WITNESS WHEREOF, I have thereunto set my hand and attached the seal of said Company this 5th day of October, 2011.




Randall Musselman, Secretary